

FILED

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA  
SACRAMENTO DIVISION

07 NOV -7 AM 10:11

CLERK, U.S. BANKRUPTCY COURT  
EASTERN DIST. OF CA.  
SACRAMENTO, CA.

In re:

CASWELL JOHNSON and  
DOROTHY JOHNSON

Debtors.

Case No. 07-25075-B-13J

D.C. Nos. PGM-1, PGM-2,  
PPR-1

Date: November 8, 2007

Time: 10:00 a.m.

Place: U.S. Courthouse

501 I Street

Courtroom 32

Sacramento CA 95814

## MEMORANDUM DECISION

This decision resolves three matters that the court previously set for hearing on November 8, 2007 at 10:00 a.m. before the Honorable David E. Russell. The three matters are the debtors' motion to value the collateral of SN Servicing Corporation/Christiana Bank and Trust Company ("Christiana"), D.C. No. PGM-2, which was set for an evidentiary hearing on the date and time set forth above following Christiana's opposition. The debtors' unopposed motion to value the collateral of Beneficial California Inc. ("Beneficial"), D.C. No. PGM-1, was set for hearing with the motion to value Christiana's collateral so that the court would not reach inconsistent results. Christiana's objection to confirmation of the debtors' plan, D.C. No. PPR-1, was set for hearing with the motion to value Christiana's collateral because the resolution of the Christiana objection was dependent on the outcome of that motion.

1 On November 1, 2007, Christiana withdrew its opposition to  
2 the debtors' motion to value its collateral. Therefore, in the  
3 absence of any opposition, the debtors' motions to value the  
4 collateral of Christiana and Beneficial pursuant to Fed. R.  
5 Bankr. P. 3012 and 11 U.S.C. § 506(a), are granted. For the  
6 purposes of both motions, the creditors' collateral, real  
7 property located at 1424 63<sup>rd</sup> Avenue, Sacramento, California  
8 95822, had a value of \$235,000.00 on the date of the petition.  
9 Homecoming Financial LLC holds the first deed of trust against  
10 the property with a balance of \$244,381.26. Thus, \$0.00 of  
11 Christiana's claim on its second deed of trust is an allowed  
12 secured claim and the balance of its claim is an allowed  
13 unsecured claim, and \$0.00 of Beneficial's claim on its third  
14 deed of trust is an allowed secured claim and the balance of its  
15 claim is an allowed unsecured claim

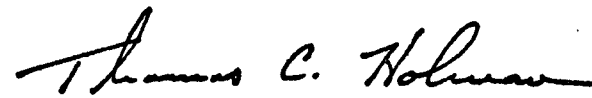
16 Because the debtors' motion to value Christiana's collateral  
17 has been granted, Christiana's objection to confirmation of the  
18 plan is overruled. Christiana's objections to confirmation were  
19 based on debtors' proposed treatment of its claim. Because  
20 Christiana's allowed secured claim has been valued at \$0.00, the  
21 plan is sufficiently funded to pay the allowed secured claim, and  
22 the debtors need not maintain post-petition payments to  
23 Christiana. Valuing Christiana's allowed secured claim at \$0.00  
24 is not an impermissible modification of the debtors' obligation  
25 to Christiana. See Nobleman v. American Savings Bank, 508 U.S.  
26 324 (1993); In re Lam, 211 B.R. 36 (9<sup>th</sup> Cir. BAP 1997).

1 Christiana's request for dismissal of this case is denied.  
2 Christiana has not cited any authority for dismissal of the case.  
3 A failure to cite the legal authority relied upon by the filing  
4 party is grounds for denial of the request. LBR 9014-1(d)(5),  
5 (1).

6 Because Christiana's objection to confirmation is overruled,  
7 confirmation of the debtors' plan filed on July 2, 2007 is  
8 granted. In the absence of any further opposition, the court  
9 finds that the plan complies with 11 U.S.C. §§ 1322(a) & (b),  
10 1323(c), and 1325(a).

11 As to the debtors' motions to value collateral and  
12 Christiana's objection to confirmation, the court will issue  
13 separate orders consistent with the foregoing ruling. Counsel  
14 for the debtors shall also submit an order confirming the plan  
15 using EDC form 3-081-03 (Rev. 7/1/03) that conforms to the  
16 foregoing ruling and which has been approved by the trustee. The  
17 title of the order shall include a specific reference to the  
18 filing date of the amended plan.

19  
20 Dated: NOV - 6 2007

21  
22   
23 Thomas C. Holman  
24 United States Bankruptcy Judge  
25  
26  
27  
28

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF CALIFORNIA

CERTIFICATE OF MAILING

The undersigned deputy clerk in the office of the United States Bankruptcy Court for the Eastern District of California hereby certifies that a copy of the document to which this certificate is attached was mailed today to the following entities listed at the address shown on the attached list or shown below.

Caswell Earl Johnson  
1424 63rd Ave  
Sacramento, CA 95822

Dorthy J. Johnson  
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Sacramento, CA 95822

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Woodland Hills, CA  
~~91367-4365~~

US Trustee  
501 I St #7-500  
Sacramento CA 95814

DATED: 11/7/07

By: 

Deputy Clerk

EDC 3-070 (New 4/21/00)